

## **§ 603.305**

support TIA is somewhat analogous to a fixed-price procurement contract.

### **§ 603.305 Use of a fixed-support TIA.**

The contracting officer may use a fixed-support TIA if:

(a) The agreement is to support or stimulate RD&D with outcomes that are well defined, observable, and verifiable;

(b) The resources required to achieve the outcomes can be estimated well enough to ensure the desired level of cost sharing (see example in § 603.560(b)); and

(c) The agreement does not require a specific amount or percentage of recipient cost sharing. In cases where the agreement does require a specific amount or percentage of cost sharing, a fixed-support TIA is not practicable because the agreement has to specify cost principles or standards for costs that may be charged to the project; require the recipient to track the costs of the project; and provide access for audit to allow verification of the recipient's compliance with the mandatory cost sharing. A fixed-support TIA may not be used if there is:

(1) A requirement (e.g., in statute or policy determination) for a specific amount or percentage of recipient cost sharing; or

(2) The contracting officer, in consultation with the program official, otherwise elects to include in the TIA a requirement for a specific amount or percentage of cost sharing.

### **§ 603.310 Use of an expenditure-based TIA.**

In general, the contracting officer must use an expenditure-based TIA under conditions other than those described in § 603.305. Reasons for any exceptions to this general rule must be documented in the award file and must be consistent with the policy in § 603.230 that precludes payment of fee or profit to participants.

### **§ 603.315 Advantages of a fixed-support TIA.**

In situations where the use of a fixed-support TIA is permissible (see §§ 603.305 and 603.310), its use may encourage some commercial firms' participation in the RD&D. With a fixed-

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support TIA, the contracting officer can eliminate or reduce some post-award requirements that sometimes are cited as disincentives for those firms to participate. For example, a fixed-support TIA need not:

(a) Specify minimum standards for the recipient's financial management system;

(b) Specify cost principles or standards stating the types of costs the recipient may charge to the project;

(c) Provide for financial audits by Federal auditors or independent public accountants of the recipient's books and records;

(d) Set minimum standards for the recipient's purchasing system; or

(e) Require the recipient to prepare financial reports for submission to the Federal Government.

## **Subpart D—Competition Phase**

### **§ 603.400 Competitive procedures.**

DOE policy is to award a TIA using competitive procedures and a merit-based selection process, as described in 10 CFR 600.6 and 600.13, respectively:

(a) In every case where required by statute; and

(b) To the maximum extent feasible, in all other cases. If it is not feasible to use competitive procedures, the contracting officer must comply with the requirements in 10 CFR 600.6(c).

### **§ 603.405 Announcement format.**

If the contracting officer, in consultation with the program official, decides that a TIA is among the types of instruments that may be awarded, the additional elements described in §§ 603.410 through 603.420 should be included in the announcement.

### **§ 603.410 Announcement content.**

Once the contracting officer, in consultation with the program official, considers the factors described in Subpart B of this part and decides that a TIA is among the types of instruments that may be awarded pursuant to a program announcement, it is important to state that fact in the announcement. The announcement also should state that a TIA is more flexible than a traditional financial assistance agreement and that requirements are negotiable